

APPENDIX**Opinion of the Circuit Court of Appeals
for the Third Circuit**

(Filed December 16, 1942)

Before MARIS, JONES and GOODRICH, *Circuit Judges.*

Per Curiam:

In this suit brought by an injured employee against a railroad company under the Federal Employers' Liability Act it appears from the face of the complaint that the plaintiff's cause of action arose more than fourteen years before the suit was commenced. Since compliance with the two years limitation provided by Section 56 of the act is a condition precedent to recovery (*Wabash Ry. Co. v. Bridal*, 94 F. 2d 117, C. C. A. 8, 1938) and it is, therefore, incumbent upon one suing under the act to allege and prove that his cause of action was brought within the time limited (*American R. Co. of Porto Rico v. Coronas*, 230 F. 545, C. C. A. 1, 1916) the district court had no alternative but to dismiss the complaint. Its judgment is accordingly affirmed.

